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FOL REPEAT OF NASSAU 485 TO SECSTATE MAR 20

QTE:

C O N F I D E N T I A L NASSAU 0485

E. O. 11652: GDS

TAGS: EFIS BF US

SUBJ: SPINY LOBSTER

REF: NASSAU 475

SUMMARY: REFTEL CONVEYED TEXT OF GCOB DIPLOMATIC NOTE DATED MARCH 17, 1975, CONCERNING ENFORCEMENT OF SPINY LOBSTER CONTINENTAL SHELF LEGISLATION. FOLLOWING IS EMBASSY COMMENT THEREON AND PROPOSED EMBASSY RESPONSE TO NOTE. EMBASSY PROPOSES TO DELIVER RESPONSE LATE MARCH 26 AND REQUESTS DEPARTMENT'S VIEWS ASAP. END SUMMARY

1. EMBASSY BELIEVES GCOB NOTE CAN BE READ IN ONE OF SEVERAL WAYS, INCLUDING POSSIBILITIES THAT: (A) GCOB HAS CHANGED ITS MIND ON COURSE TO BE FOLLOWED IN IMPLEMENTING LEGISLATION AUTHORIZING DECLARATION OF LOBSTER AS CREATURE OF SHELF, AND NOTE REPRESENTS FIRST STEP IN GCOB HARD-LINE ENFORCEMENT STANCE; (B) EMBASSY ASSESSMENT PRESENTED NASSAU 2015, DECEMBER 3, 1974, REMAINS VALID AND MINEXTAFF ADDERLEY IS STILL WILLING TO UTILIZE TIME REMAINING BEFORE ENFORCEMENT BECOMES PRACTICAL
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ISSUE IN BILATERAL DISCUSSIONS ON RESOURCE WITH U.S., BUT HE LOST OUT TO HARDER-LINE PROPONENTS IN CABINET; (C) NASSAU 2015 STILL REFLECTS GCOB VIEWS, AND NOTE IS MERE PRO FORMA MORE, PATTERNED AFTER SECSTATE'S NOTE TO NATIONS AFFECTED

BY ANALOGOUS US LEGISLATION, SETTING GCOB INTENTIONS ON THE RECORD BUT LEAVING OPEN BAHAMIAN WILLINGNESS TO DISCUSS ISSUE. PROPOSED EMBASSY RESPONSE TO NOTE, BELOW, IS DESIGNED TO ELICIT FROM MINISTRY WHICH IF ANY OF ABOVE IS CASE, AND TO CLARIFY GCOB INTENTIONS REGARDING ACTUAL ENFORCEMENT.

2. OF FOUR QUESTIONS POSED IN EMBASSY'S DRAFT RESPONSE, FIRST IS BASED ON ASSUMPTION THAT OPTION 1(C) ABOVE, IS VALID, AND GIVES ADDERLEY POSSIBILITY OF MAKING POSITIVE RESPONSE WHICH WOULD SHOW THAT APPARENT BAHAMIAN WILLINGNESS TO DISCUSS ISSUE REMAINS UNCHANGED. SECOND QUESTION IS EXTENSION OF FIRST, AND IS DESIGNED TO TEST WHETHER GCOB WILLING TO PLACE MORATORIUM ON ENFORCEMENT PENDING DISCUSSIONS. THIRD QUESTION EXPLICITLY RAISES ISSUE WHICH EMBASSY HOPES HAS OCCURRED TO ADDERLEY, BUT WHICH FOR INSTANCE HAD NOT OCCURRED TO AGRICULTURE AND FISHERIES MINISTER ROBERTS SOME MONTHS AGO, VIZ, HOW GCOB CAN ENFORCE A CLAIM WHICH HAS NOT BEEN DEFINED WITH ANY GEOGRAPHICAL PRECISION AND WHOSE LIMITS WHEN DEFINED MAY NOT BE ACCEPTABLE TO USG, AND ALSO SUGGESTS THAT THIS ISSUE SHOULD BE PART OF DISCUSSIONS REFERRED TO ABOVE. FOURTH QUESTION IS INTENDED TO PLACE BEFORE ADDERLEY SUGGESTION THAT BAHAMIANS UNLIKELY TO HAVE CAPABILITY OF ENFORCING CLAIM EFFECTIVELY IF THEY TRY TO OPERATE WITHOUT USG COOPERATION AND THAT ANY SUCH POSSIBLE COOPERATION CAN AGAIN ONLY BE RESULT OF BILATERAL DISCUSSIONS.

3. TONE OF EMBASSY RESPONSE WILL WE HOPE CONVEY TO ADDERLEY IMPORTANCE USG ATTACHES TO AVOIDING BILATERAL CONFLICTS ARISING FROM GCOB ATTEMPTS TO ENFORCE RECENT LEGISLATION. RESPONSE ALSO STRESSES THAT TIME IS OF THE ESSENCE. ON LATTER POINT, EMBASSY CONTINUES TO BELIEVE THAT, GIVEN IMMINENT CLOSING OF 1974 SPINY LOBSTER SEASON, ENFORCEMENT OF SHELF CLAIM IS UNLIKELY TO ARISE AS PRACTICAL PROBLEM UNTIL OPENING OF 1975 SEASON LATE IN AUGUST. HOWEVER, PACE OF GCOB MOVEMENT ON ALMOST ANY MATTER OF IMPORTANCE AND SPECIFICALLY ON THIS ISSUE SUGGESTS NEED TO PROD GCOB IF MATTER IS TO BE RESOLVED BEFORE THAT TIME.
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4. TEXT OF EMBASSY'S DRAFT RESPONSE FOLLOWS:

(COMPLIMENTARY OPENING)... AND HAS THE HONOR TO REFER TO THE MINISTRY'S NOTE NO. 31, DATED MARCH 17, 1975, CONCERNING THE RECENT ENACTMENT OF LEGISLATION BY THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS RELEVANT TO THE EXERCISE BY THAT GOVERNMENT OF SOVEREIGNTY OVER THE RESOURCES OF THE CONTINENTAL SHELF APPURTENANT TO THE COMMONWEALTH OF THE BAHAMAS.

THE EMBASSY HAS THE FURTHER HONOR TO REFER TO PRIOR COMMUNICATIONS WITH THE MINISTRY ON THIS SUBJECT. SPECIFICALLY, ON DECEMBER 2, 1974, THE AMBASSADOR, IN CONVERSATION WITH THE MINISTER OF EXTERNAL AFFAIRS, STRESSED THE IMPORTANCE WHICH

THE UNITED STATES GOVERNMENT ATTACHES TO THIS ISSUE AND TO THE MUTUAL INTEREST OF OUR TWO GOVERNMENTS IN AVOIDING POSSIBLE INSTANCES OF CONFLICT ARISING FROM ENFORCEMENT OF THE RECENT LEGISLATION. IT IS THE EMBASSY'S RECOLLECTION THAT DURING THAT SAME CONVERSATION THE AMBASSADOR AND THE MINISTER DISCUSSED THE DESIRABILITY OF UTILIZING THE TIME PRIOR TO THE LIKELY DATE OF PRACTICAL ENFORCEMENT OF THE LEGISLATION, WHICH THE MINISTER SUGGESTED WOULD BE THE OPENING DATE OF THE 1975 LOBSTER FISHING SEASON, IN CLARIFYING THE IMPLICATIONS OF THE LEGISLATION. IT IS ALSO THE EMBASSY'S RECOLLECTION THAT IT WAS AGREED THAT A LOGICAL FIRST STEP IN DISCUSSING THIS ISSUE WOULD BE AN EXCHANGE OF TECHNICAL INFORMATION ON THE NATURE OF THE LOBSTER RESOURCE IN THE GENERAL AREA OF THE BAHAMAS AND MEASURES WHICH WOULD ASSURE ITS CONTINUED LONG-TERM VIABILITY, AND THAT IT WAS FURTHER AGREED THAT THE EMBASSY AND THE MINISTRY WOULD EXCHANGE DRAFT AGENDA FOR SUCH TECHNICAL DISCUSSIONS.

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PURSUANT TO THE DECEMBER 2, 1974 CONVERSATION, SECOND SECRETARY WILLIAM R. SALISBURY OF THE EMBASSY WROTE TO PERMANENT SECRETARY ORIS S. RUSSELL OF THE MINISTRY ON JANUARY 15, 1975, FORWARDING A DRAFT AGENDA FOR SCIENTIFIC DISCUSSIONS OF THE RESOURCE AND PROPOSING THAT DISCUSSIONS COMMENCE DURING THE MONTH OF FEBRUARY 1975. ON JANUARY 20, 1975, MR. RUSSELL RESPONDED BY ADVISING THAT THE EMBASSY'S DRAFT WAS RECEIVING CONFIDENTIAL

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SIDERATION BUT STATING THAT HE HAD BEEN DIRECTED TO INFORM THE EMBASSY THAT IT WAS THE MINISTRY'S VIEW THAT THE PROPOSED FEBRUARY DATE OF COMMENCEMENT FOR DISCUSSIONS WAS PREMATURE.

IN LIGHT OF THE ABOVE BACKGROUND, THE EMBASSY HAS THE HONOR TO REQUEST OF THE MINISTRY THE FOLLOWING CLARIFICATIONS CONCERNING THE MINISTRY'S NOTE NO. 31 OF MARCH 17, 1975:

1. TAKING INTO CONSIDERATION THE DECEMBER 2, 1974 CONVERSATION BETWEEN THE AMBASSADOR AND THE MINISTER ON THE MUTUAL ADVANTAGES TO BE GAINED BY HOLDING DISCUSSIONS ON THE ISSUES PRESENTED BY THE RECENT LEGISLATION PRIOR TO THE DATE ON WHICH ACTUAL ENFORCEMENT OF THE LEGISLATION WAS TO COMMENCE IN ORDER TO AVOID THE POSSIBILITY OF CONFLICT, DOES IT CONTINUE TO BE THE VIEW OF THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS THAT SUCH DISCUSSIONS WOULD BE DESIRABLE?

2. SUPPLEMENTARY TO THE QUESTION PRESENTED IMMEDIATELY ABOVE, IS IT THE INTENTION OF THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS TO POSTPONE ENFORCEMENT OF THE RECENT LEGISLATION PENDING SUCH DISCUSSIONS?

3. IN THE ABSENCE OF THE AFOREMENTIONED ANTICIPATED DIS-

CUSSIONS, IS IT THE INTENTION OF THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS TO INDICATE TO THE EMBASSY THE GOVERNMENT'S VIEW OF THOSE CONTINENTAL SHELF AREAS DEEMED BY IT TO FALL WITHIN ITS JURISDICTION FOR THE PURPOSES OF THE RECENT LEGISLATION? WILL SUCH INDICATION BE FURNISHED PRIOR TO THE NOTIFICATION TO THE EMBASSY OF THE EFFECTIVE DATE OF THE CONTINENTAL SHELF FISHERIES RESOURCES LIST, OR PRIOR TO THE DATE OF FULL ENFORCEMENT, OR BOTH? SHOULD THE VIEWS OF THE GOVERNMENT CONCERNING THE AREAS INVOLVED DIFFER FROM THOSE OF THE GOVERNMENT OF THE UNITED STATES OF AMERICA, IS IT THE INTENTION OF THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS TO MAKE THIS MATTER A SUBJECT OF BILATERAL DISCUSSION?

4. IS IT THE INTENTION OF THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS TO ENGAGE IN DISCUSSIONS WITH THE GOVERNMENT OF THE UNITED STATES OF AMERICA REGARDING POSSIBLE COOPERATIVE ARRANGEMENTS TO RESTRICT OR CONTROL FISHING OF THE LOBSTER RESOURCE BY FISHERMEN BASED IN THE UNITED STATES IN
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AREAS FALLING UNDER THE MUTUALLY AGREED JURISDICTION OF THE COMMONWEALTH OF THE BAHAMAS? IF SO, WHEN DOES THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS PROPOSE THAT SUCH DISCUSSIONS COMMENCE?

THE GOVERNMENT OF THE UNITED STATES OF AMERICA BELIEVES, AS PREVIOUSLY EXPRESSED BY THE AMBASSADOR TO THE MINISTER, THAT EVERY EFFORT SHOULD BE MADE TO DISCUSS BILATERALLY AND AT THE EARLIEST POSSIBLE MOMENT THE INTENT AND POSSIBLE RAMIFICATIONS OF THE RECENT LEGISLATION. IT WOULD REGRET ANY FAILURE TO UTILIZE FULLY THE TIME REMAINING PRIOR TO THE ENFORCEMENT OF THE LEGISLATION TO EXPLORE THIS ISSUE WITH THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS, AND WITH THE DEEPEST RESPECT URGES THE GOVERNMENT TO JOIN IN SUCH DISCUSSIONS WITHOUT DELAY. THE AMBASSADOR AND HIS STAFF ARE AT THE DISPOSITION OF THE GOVERNMENT OF THE COMMONWEALTH OF THE BAHAMAS TO ASSIST IN ANY WAY IN PREPARATIONS FOR BILATERAL DISCUSSION OF THIS IMPORTANT ISSUE.

(COMPLIMENTARY CLOSE). END TEXT

5. EMBASSY BELIEVES IT VERY IMPORTANT TO MAKE QUICK RESPONSE TO GCOB NOTE IN ORDER TO CLARIFY BAHAMIAN INTENTIONS ASAP AND ALLOW TIME FOR FOLLOW-ON ACTION NECESSITATED THEREBY. EMBASSY INTENDS TO FOLLOW DELIVERY OF RESPONSE WITH ORAL OFFERS TO ADDERLEY AND PERMSEC RUSSELL TO DISCUSS ISSUE POSED BY EXCHANGE OF NOTES AS EARLY AS ADDERLEY CAN AND IN ANY MANNER HE WISHES. NEVERTHELESS, IN ORDER TO AVOID POSSIBLE MISUNDERSTANDINGS AND TO CREATE AN UNAMBIGUOUS RECORD, EMBASSY BELIEVES THAT CORNERSTONE OF OUR HANDLING OF ISSUE SHOULD BE PRESENTED IN FORM OF WRITTEN DIPLOMATIC NOTE.
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